

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: 20 April 2005

Division: Growth Management

Bulk Item: Yes X No

Department: Environmental Resources

Staff Contact: Ralph Gouldy

AGENDA ITEM WORDING:

Approval for a Grant of Conservation Easement for Lots 8, 9, 10 & 11, Block 1, Lazy Lagoon Subdivision, PB 2 pg 126 Monroe County Records, Monroe County, Florida, RE# 00496590-000000, 00496600-000000, 00496610-000000 & 00496620-000000.

ITEM BACKGROUND: None

PREVIOUS RELEVANT BOCC ACTION: None

CONTRACT/AGREEMENT CHANGES: None

STAFF RECOMMENDATIONS: Approval

TOTAL COST: \$61.00

BUDGETED: Yes N/A No

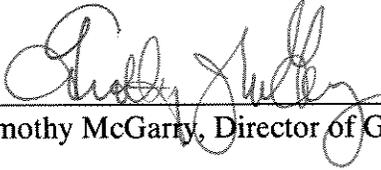
COST TO COUNTY: None

SOURCE OF FUNDS: Byron R. Ashby

REVENUE PRODUCING: Yes No X **AMOUNT PER MONTH** **Year**

APPROVED BY: County Atty X OMB/Purchasing N/A Risk Management N/A

DIVISION DIRECTOR APPROVAL:



Timothy McGarry, Director of Growth Management

DOCUMENTATION: Included X Not Required

DISPOSITION: _____

AGENDA ITEM # _____

Grant of Conservation Easement

THIS AGREEMENT is made this _____ day of _____, 20____ by and between

Byron R. Ashby

whose address is 158 Dickie Way, Tavernier, Florida 33070

County of Monroe State of Florida, (Grantor) and Monroe County, a political subdivision of the State of Florida, whose address is 5100 College Road, Stock Island, Key West, FL 33040 (Grantee).

The parties recite and declare:

The Grantor is the owner of certain real property commonly known as

247 Bay Drive, Key Largo, Florida 33037

(the servient estate), *more* particularly described as follows: (Legal description) *Lots 8, 9, 10 & 11*

Block 1 Lazy Lagoon subdivision, PB 2 pg 126 Monroe Records, RE#00496590-000000, 00496600-000000, 00496610-000000 & 00496620-000000

The Grantor desires to develop the servient estate as (describe project):

A single family home as shown in permit #02-3-3363

The servient estate contains (describe relevant natural features):

Low Quality High Elevation Tropical Hardwood Hammock

The Grantee is a general purpose political subdivision of the State authorized and required to regulate and control the use of real property through land development regulations in order to protect the public health, safety and welfare. Sec. 9.5-336 of the Grantee's land development regulations requires that

certain areas of the servient estate be retained as open space and preserved in their natural condition if the servient estate is to be developed as a single family home

The parties agree as follows:

1. Grant of easement.

In consideration for a development permit for a single family home and in order to comply with Sec. 9.5-336, Monroe County Code, the Grantor hereby grants to Grantee the easement described below.

2. Character of the easement and governing law.

This easement is a conservation easement under Sec. 704.06, Fla. Stat. and is to be governed by, construed and enforced in accordance with that statute and with the applicable laws of the State of Florida.

3. Location of the easement. (metes and bounds description of the open space area)

a. The conservation easement is located as follows
as shown in Exhibit A attached

b. The location of the easement is also described in the diagram attached to this instrument as Exhibit "A" and, by reference, made a part of as fully and to the same effect as if set forth in this instrument in its entirety.

4. Restraints imposed by the Conservation Easement.

The conservation easement granted by this instrument imposes the following restrictions on the future use of the servient estate within the easement area:

- a. No removal, trimming or pruning of trees, shrubs, or other vegetation (except non-native vegetation whose removal is authorized by the Grantee's biologist).
- b. No acts that are detrimental to wildlife or wildlife habitat preservation.
- c. No excavation, dredging, or removal of loam, peat gravel, soil, rock, or other material substances in such manner as to affect the surface.

d. No activities detrimental to drainage, flood control, water conservation, erosion control and soil conservation.

e. No dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.

f. No planting of non-native plants.

5. Terms and persons bound.

This conservation easement is perpetual, runs with the land and is binding on all present and subsequent owners and mortgagees of the servient estate. Grantor represents that the mortgagee(s), if any, whose consent is attached hereto, is (are) the only mortgagee(s) having a security interest in the servient estate.

6. Entire Agreement.

This agreement constitutes the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement is not binding upon either party except to the extent incorporated in this Agreement.

7. Modification of Agreement.

Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement is binding only if evidenced in writing and signed by an authorized representative of each party and by any mortgagee.

8. Attorney's fees.

In the event of any controversy, claim or dispute arising under this instrument, the prevailing party is entitled to recover reasonable attorney's fees and costs.

9. Entry of Grantee's representative on the servient estate.

The Grantee's representative on the servient estate, after first furnishing the Grantor no less than 24 hours notice for the purposes of inspection to determine the Grantor's compliance with this Agreement.

10. Notice.

Any notice provided for or concerning this Agreement must be in writing and is sufficiently given when sent by certified or registered mail, or via an equivalent service furnished by a private carrier, to the respective address of each party as set forth at the beginning of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA (Grantee)

By _____
Deputy Clerk

By _____
Mayor/Chairman

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

[Signature]

SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY

Date 3/23/05

[Signature]
Signature of witness

Signature of witness

Lisa Guy

Printed name of witness

[Signature]

Signature of witness

MARLENE M. DAY

Printed name of witness

[Signature]
Grantor

Grantor

BYRON Ashby

Printed name of Grantor

[Signature]

Grantor

NANCY G. ASHBY

Printed name of Grantor

STATE OF FLORIDA
COUNTY OF MONROE

BEFORE ME, the undersigned authority, personally appeared Byron Ashby
and Nancy G. Ashby, who are personally known to me, or have produced

FD-21007162344 and FD-21062764820, respectively
as identification.

Sworn to and subscribed before me this 16 day of Feb, 20 05.



Typed Notary Name and Number

[Signature]
Notary Signature and Seal

(If Applicable)

Fidelity Federal Bank and Trust, whose address is
(Name of Mortgagee)

205 DATURA STREET, City of WEST PALM BEACH.

County of PALM BEACH, State of FLORIDA,

having a record interest in the lands described in the Conservation Easement Agreement between

BRYON R. ASHBY Grantor, and Monroe County, Florida, Grantee, hereby joins in, consents,

and ratifies that Conservation Easement at ABOVE ADDRESS on the date indicated
below. (Place of Execution)

Witness
[Signature]
Witness

[Signature], Mortgagee
F. Devoe Bassford
VICE - PRESIDENT

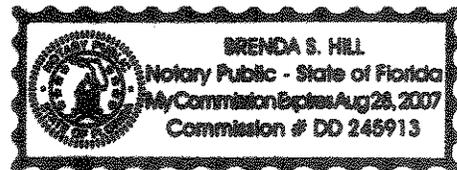
STATE OF FLORIDA
COUNTY OF MONROE

SWORN TO AND SUBSCRIBED before me this 18th day of February

20 05, by F. Devoe Bassford who is personally known to me or has produced
FL-B 214-244-473060 as identification.

BRENDA S. HILL
Typed Notary Name and Number

[Signature]
Notary Signature and Seal



D E S C R I P T I O N S

Lots 8, 9, 10 & 11, Block 1, LAZY LAGOON, according to the plat thereof as recorded in Plat Book 2 at Page 126 of the public records of Monroe County, Florida.

Conservation Easement Descriptions:

Easement No. 1

A conservation easement in Lots 8, 9 and 10, Block 1, Lazy Lagoon, according to the plat thereof recorded in Plat Book 2 at Page 126 of the public records of Monroe County, Florida, more particularly described as follows:

Begin at the southerly property corner common to Lots 7 and 9, Block 1 of said plat, and on the northerly right of way line of Buttonwood Drive; from said Point of Beginning thence westerly along said northerly right of way line for a distance of 20.33 feet; thence northerly at right angles to the previous course for a distance of 20.0 feet; thence easterly at right angles to the previous course for a distance of 15.33 feet; thence northerly at right angles to the previous course for a distance of 47.0 feet; thence westerly at right angles to the previous course for a distance of 20.0 feet to the southerly right of way line of Bay Drive according to said plat; thence easterly along said southerly right of way line for a distance of 52.0 feet to the northerly property corner common to Lots 6 and 8, Block 1 of said plat; thence southerly along the boundary line common to Lots 6 and 8 and 7 and 9, Block 1 of said plat, for a distance of 100 feet to the Point of Beginning containing 1750 Sq. Ft. more or less.

Easement No. 2

A conservation easement in Lots 9, 10 and 11, Block 1, Lazy Lagoon, according to the plat thereof recorded in Plat Book 2 at Page 126 of the public records of Monroe County, Florida, more particularly described as follows:

Begin at the southerly property corner common to Lots 11 and 13, Block 1 of said plat and on the northerly right of way line of Buttonwood Drive; from said Point of Beginning, thence northerly along the boundary line common to Lots 11 and 13 and 10 and 12, Block 1 of said plat for a distance of 100.0 feet to the property corner common to Lots 10 and 12, Block 1 of said plat on the southerly right of way line of Bay Drive; thence easterly along said southerly right of way line for a distance of 30.0 feet; thence southerly at right angles to the previous course for a distance of 20.0 feet; thence westerly at right angles to the previous course for a distance of 20.0 feet; thence southerly at right angles to the previous course for a distance of 64.83 feet; thence easterly at right angles to the previous course for a distance of 45.33 feet; thence northerly at right angles to the previous course for a distance of 5.0 feet; thence easterly at right angles to the previous course for a distance of 12.33 feet; thence southerly at right angles to the previous course for a distance of 20.0 feet to the northerly right of way line of Buttonwood Drive; thence westerly along said right of way line of Buttonwood Drive for a distance of 67.67 feet to the Point of Beginning.

Containing 2342 Sq. Ft. more or less.

B S M / Barrow Surveying & Mapping		Client: Byron Ashby		Location: Key Largo	
91780 Overseas Highway / P.O. Box 279		Drawing by: RB/DHB Fieldbook 282		Drawing No. 2438B	
Township, Florida, 33070		Section 35 Township 61 South Range 39 East		Field survey completed on: 12-18-04	
Phone: (305)852-5229 / Fax: (305)852-9064		Computer: Teard Director: D\DWB Revision: 1-8-05		Description: Common Easement records	
				Monroe County, Florida	

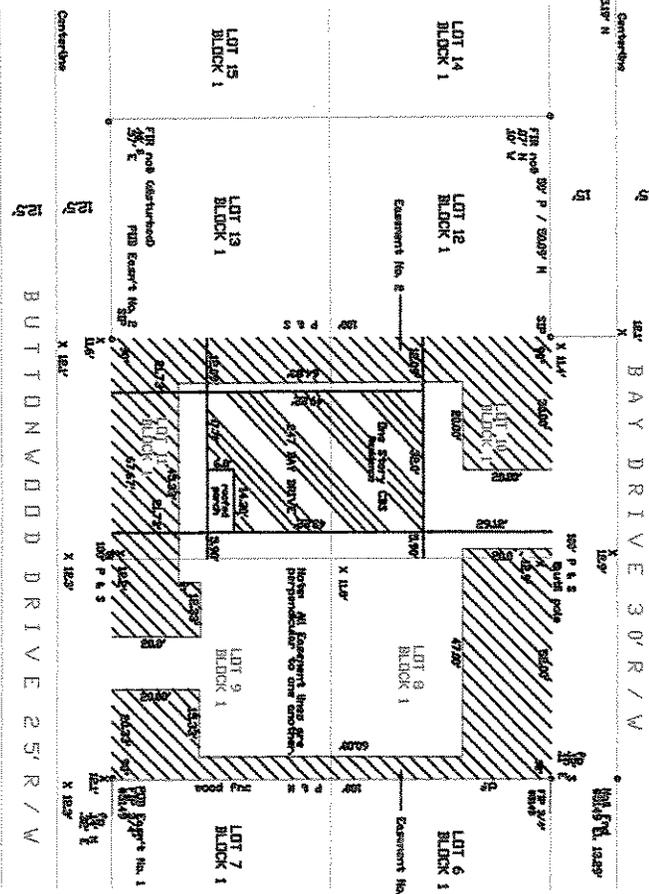
DESCRIPTION

Lots 8, 9, 10 & 11, Block 1, LADY LAGOON, according to the plat thereof as recorded in Plat Book 2 of Page 125 of the public records of Monroe County, Florida.

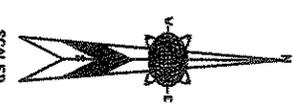
Construction Easement Description

Easement No. 1
A construction easement in Lots 8, 9 and 10, Block 1, Lady Lagoon, according to the plat thereof as recorded in Plat Book 2 of Page 125 of the public records of Monroe County, Florida, more particularly described as follows: Beginning at the southerly right of way line of Battenwood Drive from said point of beginning thereof, extending easterly along said southerly right of way line for a distance of 2325 feet thence southerly along the previous course for a distance of 660 feet thence easterly at right angles to the previous course for a distance of 470 feet thence northerly at right angles to the previous course for a distance of 4483 feet thence easterly at right angles to the previous course for a distance of 4323 feet thence southerly at right angles to the previous course for a distance of 1023 feet thence southerly at right angles to the previous course for a distance of 200 feet to the southerly right of way line of Battenwood Drive from said point of beginning along the boundary line common to Lots 6 and 7 and 9, Block 1 of said plat thereof southerly along the boundary line common to Lots 6 and 7 and 9, Block 1 of said plat thereof for a distance of 200 feet to the Point of Beginning.

Easement No. 2
A construction easement in Lots 8, 9 and 10, Block 1, Lady Lagoon, according to the plat thereof as recorded in Plat Book 2 of Page 125 of the public records of Monroe County, Florida, more particularly described as follows: Beginning at the southerly right of way line of Battenwood Drive from said point of beginning thereof, extending easterly along said southerly right of way line for a distance of 2325 feet thence southerly along the previous course for a distance of 660 feet thence easterly at right angles to the previous course for a distance of 470 feet thence northerly at right angles to the previous course for a distance of 4483 feet thence easterly at right angles to the previous course for a distance of 4323 feet thence southerly at right angles to the previous course for a distance of 1023 feet thence southerly at right angles to the previous course for a distance of 200 feet to the southerly right of way line of Battenwood Drive from said point of beginning along the boundary line common to Lots 6 and 7 and 9, Block 1 of said plat thereof southerly along the boundary line common to Lots 6 and 7 and 9, Block 1 of said plat thereof for a distance of 200 feet to the Point of Beginning.



SCALED
PB 2, PG 125



LEGEND

- P/W - Centerline Right of Way line
- PL - Plat
- PL 2 - Plat 2
- PL 1 - Plat 1
- PL 1/2 - Plat 1/2
- PL 1/4 - Plat 1/4
- PL 1/8 - Plat 1/8
- PL 1/16 - Plat 1/16
- PL 1/32 - Plat 1/32
- PL 1/64 - Plat 1/64
- PL 1/128 - Plat 1/128
- PL 1/256 - Plat 1/256
- PL 1/512 - Plat 1/512
- PL 1/1024 - Plat 1/1024
- PL 1/2048 - Plat 1/2048
- PL 1/4096 - Plat 1/4096
- PL 1/8192 - Plat 1/8192
- PL 1/16384 - Plat 1/16384
- PL 1/32768 - Plat 1/32768
- PL 1/65536 - Plat 1/65536
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- PL 1/1569274522911632229868112001209536 - Plat 1/1569274522911632229868112001209536
- PL 1/3138549045823264459736224002419072 - Plat 1/3138549045823264459736224002419072
- PL 1/6277098091646528919472448004838144 - Plat 1/6277098091646528919472448004838144
- PL 1/1255419618293057839894896009676288 - Plat 1/1255419618293057839894896009676288
- PL 1/2510839236586115679789792019352576 - Plat 1

Attachment:

Ashby, Byron R.

Lots 8,9,10,&11, Lazy Lagoon Subdivision, Key Largo, FL
RE#00496590-000000, RE#00496600-000000. RE#00496610-000000, and
RE#00496620-000000